

Steven G. Gey

Florida State Univ. College of Law
425 West Jefferson
Tallahassee, FL 32306

850-644-5467 (TEL)
850-644-5487 (FAX)
sgey@law.fsu.edu

LEGAL EMPLOYMENT

- 1999-present David and Deborah Fonvielle and Donald and Janet Hinkle Professor of Law, Florida State University
- 1993-99 John W. and Ashley E. Frost Professor of Law, Florida State University
- Spring 1998 Visiting Professor, University of California Hastings College of the Law
- 1989-93 Associate Professor of Law, Florida State University
- 1985-89 Assistant Professor of Law, Florida State University
- 1982-85 Associate, Paul, Weiss, Rifkind, Wharton & Garrison (New York City)

EDUCATION

- J.D., 1982 Columbia University
Articles Editor, *Columbia Law Review*
- B.A., 1978 Eckerd College (Philosophy)

SCHOLARLY PUBLICATIONS

Casebooks

- First Amendment: Cases and Theory (with Ronald Krotoszynski, Lyrrisa Lidsky, and Christine E. Wells) (Aspen Publishing 2008) (forthcoming), with annual supplements and teachers' manual
- Cases and Materials on Religion and the State, Second Edition (Lexis Publishing 2006), with annual supplements and teachers' manual

Academic Articles and Book Chapters

- School Vouchers and the Problem of the Recalcitrant Constitutional Text, 37 J.L. & Educ. 87-96 (2008)

Free Speech and the Incitement of Violence or Unlawful Behavior, *in* Mark Tushnet and Vikram Amar, eds., *Comparative Constitutional Law* (Oxford Univ. Pr. 2008) (forthcoming)

Atheism and Freedom of Religion, *in* Michael Martin, ed., *The Cambridge Companion to Atheism* (Cambridge Univ. Pr. 2007)

Life after the Establishment Clause, 110 *W. Va. L. Rev.* 1-50 (2007)

Rewriting the Establishment Clause for One Nation Under (a) God, 41 *Tulsa L. Rev.* 737-72 (2006)

Reconciling the Supreme Court's Four Establishment Clauses, 8 *U. Pa. J. Const. L.* 725-800 (2006)

Vestiges of the Establishment Clause, 5 *First Amend. L. Rev.* 1-58 (2006)

Contracting Away Rights: A Comment on Daniel Farber's *Another View of the Quagmire*, 33 *Fla. St. L. Rev.* 953-82 (2006)

Explaining the Court's Confusion, 21 *J. L. & Relig.* 439-43 (2005-06) (book review of Ronald B. Flowers, *That Godless Court?*)

Empirical Measures of Judicial Performance, 32 *Fla. St. U. L. Rev.* 1001-14 (2005) (with Jim Rossi)

Is it Science Yet? Intelligent Design Creationism and the Constitution, 83 *Wash. U. L.Q.* 1-149 (2005) (with Matthew J. Brauer & Barbara Forrest)

A Few Questions About Cross Burning, Intimidation, and Free Speech, 80 *Notre Dame L. Rev.* 1287-1375 (2005)

Free Will, Religious Liberty, and a Partial Defense of The French Prohibition of Religious Paraphernalia in Public Schools (the Ninth Annual Frankel Lecture), 2005 *Hous. L. Rev.* 1-79

More or Less Bunk: The Establishment Clause Answers that History Doesn't Provide, 2004 *BYU L. Rev.* 1617-31

Unity of the Graveyard and the Attack on Constitutional Secularism, 2004 *BYU L. Rev.* 1005-30

"Under God," the Pledge of Allegiance, and Other Constitutional Trivia, 81 *N.C. L. Rev.* 1865-1926 (2003)

The Myth of State Sovereignty, 63 *Ohio St. L.J.* 1601-82 (2002)

The No Religion Zone: Constitutional Limitations on Religious Association in the Public Sphere, 85 *Minn. L. Rev.* 1885-1916 (2001)

The Odd Consequences of Taking *Bush v. Gore* Seriously, 29 Fla. St. U. L. Rev. 1005-29 (2001)

When is Religious Speech Not "Free Speech?" 2000 U. Ill. L. Rev. 379-460

The *Nuremberg Files* and the First Amendment Value of Threats, 78 Tex. L. Rev. 541-98 (2000)

Why Rubbish Matters: The Neoconservative Underpinnings of Social Constructionist Theory, 83 Minn. L. Rev. 1707-33 (1999)

Fear of Freedom: The New Speech Regulation in Cyberspace, 10 Tex. J. of Women & L. 183-206 (1999)

Postmodern Censorship Revisited: A Reply to Richard Delgado, 146 U. Pa. L. Rev. 1077-95 (1998)

Reopening the Public Forum—From Sidewalks to Cyberspace, 59 Ohio St. L.J. 1535-1634 (1998)

What If Wisconsin v. Mitchell Involved Martin Luther King?, 65 Geo. Wash. L. Rev. 1014-70 (1997)

The Case Against Postmodern Censorship Theory, 145 U. Pa. L. Rev. 193-297 (1996), *reprinted in*, Swanson, James L., ed., First Amendment Law Handbook (West Publ., 1998).

Is Moral Relativism a Constitutional Command?, 70 Ind. L.J. 331-404 (1995).

Religious Coercion and the Establishment Clause, 1994 U. Ill. L. Rev. 463-534.

The Unfortunate Revival of Civic Republicanism, 141 U. Pa. L. Rev. 801-898 (1993)

Lucas v. South Carolina and the Uncertain Future of the Takings Clause, 20 Env. & Urban Issues 14-22 (1993)

Justice Scalia's Death Penalty, 20 Fla. St. U. L. Rev. 67-132 (1992), *reprinted in* Streib, Victor L., ed., A Capital Punishment Anthology (Anderson Publishing, 1993)

This is Not a Flag: The Aesthetics of Desecration, 1990 Wis. L. Rev. 1549-95.

Why is Religion Special? Reconsidering the Accommodation of Religion Under the Religion Clauses of the First Amendment, 52 U. Pitt. L. Rev. 75-187 (1990)

The Political Economy of the Dormant Commerce Clause, 17 N.Y.U. Rev. L. & Soc. Change 1-80 (1989)

The Apologetics of Suppression: The Regulation of Pornography as Act and Idea, 86 Mich. L. Rev. 1564-1634 (1988), *reprinted in* Garvey, John H. & Schauer, Frederick, eds., The First Amendment:

A Reader (West Publ., 2d ed. 1996)

Death is Different: Or How We Stopped Worrying and Learned to Love the Chair, 41 Rutgers L. Rev. 451-73 (1988) (book review of W. White, *The Death Penalty in the Eighties*)

A Constitutional Morphology: Text, Context, and Pretext in Constitutional Interpretation, 19 Ariz. St. L. Rev. 587-633 (1987)

Almost an Age of Justice, 14 Fla. St. U. L. Rev. 381-93 (1986) (book review of B. Schwartz, *The Unpublished Opinions of the Warren Court*)

Student Note, *Rebuilding the Wall: The Case for Return to the Strict Interpretation of the Establishment Clause*, 81 Colum. L. Rev. 1463-90 (1981)

Other Publications

Separate entries on *Erie v. Paps*; *United States v. American Library Association*; *Legal Services v. Velazquez*; and *Rumsfeld v. FAIR*, in David S. Tanenhaus, ed., *Encyclopedia of the Supreme Court of the United States* (Macmillan 2008) (forthcoming)

Separate entries on *Defining Religion*; *Accommodation of Religion*; and *Tinker v. Des Moines School District*, in Paul Finkelman, ed., *Encyclopedia of American Civil Liberties* (Routledge 2006)

Kitzmiller: An Intelligent Ruling on Intelligent Design, in *Jurist* (December 29, 2005)

Healthcare Providers and the Limits of Conscientious Objection, *Science and Technology News* (May 2004)

Charitable Choice, 96 *Liberty* 16 (2001)

Legal Aspects of Pornography, in Brian Kinsey, ed., *Encyclopedia of Communication and Information* (Macmillan 2001)

Cyberlaw, in Raul Rojas, ed., *Encyclopedia of Computers and Computer History* (Moschovitis 2001)

Protecting Individual Rights: The Supreme Court's Abandonment of an Honorable Tradition, 9 *The Florida Bar Public Interest Law Section Reporter* 25 (2000)

Christianity 101: How the Lee County School Board Got Religion (And Tried to Help Everyone Else Get It, Too), 94 *Liberty* 6 (May/June 1999) (discussing Lee County, Florida public school Bible history course)

When Faith Kills, 93 *Liberty* 17 (Jan./Feb. 1998) (discussing legal challenges to Christian Science)

Free Exercises, 92 Liberty 18 (July/Aug. 1997) (discussing government accommodation of religion)

Sealed Lips, 92 Liberty 14 (Mar./Apr. 1997) (discussing religious free speech claims)

States' Rights (and Wrongs), 91 Liberty 18 (Mar./Apr. 1996) (discussing the incorporation of the Bill of rights into the Fourteenth Amendment)

SELECTED RECENT PRESENTATIONS AND CONFERENCES (2004-07)

December 12, 2007. Panelist, Emory/Washington and Lee/University of Louisville First Amendment Forum (University of Louisville School of Law)

October 17, 2007. Panelist with Kent Greenawalt and Marci Hamilton on the Recent Paradigm Shift in Establishment Clause Jurisprudence (Columbia University School of Law)

October 3, 2007. Speaker on The Roberts Court and Procedural Restrictions on Standing in Establishment Clause Cases (University of Pennsylvania Law School)

July 30, 2007. Panelist on *Hein* and Recent Procedural Limitations on Constitutional Remedies, American Constitution Society annual meeting (Washington, DC)

April 13, 2007. Featured address, American Constitution Society Symposium on the Religion Clauses in the 21st Century (West Virginia University College of Law)

November 17, 2006. Presentation on the Legal Ramifications of Intelligent Design Movement, Sponsored by the University of South Florida College of Arts & Sciences and the United States Geological Survey (Tampa, Florida)

July 27, 2006. Panelist on Legal Issues Regarding Science Education in the Public Schools, Council of Engineering and Scientific Society Executives 2006 Annual Meeting (Salt Lake City, Utah)

July 17, 2006. Panelist on the Evolving Meaning of the Establishment Clause, Southeast Association of Law Schools annual conference (Palm Beach, Florida)

May 17, 2006. Panelist on Religion and Science in Public Schools, sponsored by the University Research Magazine Association and the Florida State University Office of Research

April 28, 2006. Faculty workshop, University of Alabama School of Law

March 17, 2006. Presentation on new models of Establishment Clause jurisprudence, Capitol University faculty workshop series (Columbus, OH)

February 24, 2006. Panelist on the future of *Stone v. Graham*, Symposium on Religion in the Public Schools, University of North Carolina School of Law (Chapel Hill, NC)

February 18, 2006. Speaker, “Legal Issues in the Creation/Evolution Debates,” American Association for the Advancement of Science Annual Meeting (St. Louis, MO)

February 10, 2006. Panelist on the ABA Science and Technology Section panel on Constitutional Principles and Legal Strategies in Disputes Between Science and Religion,” ABA Midyear Conference (Chicago, IL)

January 18, 2006. Briefing for the U.S. Senate Judiciary Committee staff on Samuel Alito’s First Amendment church/state jurisprudence (Washington, DC)

October 21, 2005. Presentation and panelist at American Enterprise Institute conference on Intelligent Design and the Constitution (Washington, D.C.)

September 19, 2005. Presentation on future trends in the Establishment Clause at University of Tulsa College of Law conference in honor of Nadine Strossen

July 18, 2005. Presentation on the judicial nomination process at the Southeastern Association of Law Schools annual conference (Hilton Head, S.C.)

May 6, 2005. Presentation on regulating religious property under the Religious Land Use and Institutionalized Persons Act at the City, Local, and County Government Law annual conference (Orlando, Florida)

March 26, 2005. Symposium on Default Rules, Florida State University College of Law, commentator on Daniel Farber’s *Another View of the Quagmire: Unconstitutional Conditions and Contract Theory*

February 12, 2005. Presentation and panelist at the University of Pennsylvania Law School symposium on Law and Religion.

December 18, 2004. Panelist at the American Anthropological Association annual meeting (Seattle, Washington): “Recent Legal Controversies in Science Education”

November 4, 2004. Ninth Annual Frankel Lecture, University of Houston Law Center: “Free Will, Religious Liberty, and a Partial Defense of The French Prohibition of Religious Paraphernalia in Public Schools”

October 28, 2004. Presentation to the Ohio State Bar Association on current trends in First Amendment jurisprudence.

September 10, 2004. Presentation to the National Center for Science Education (Berkeley, California): “The First Amendment and Challenges to Science Education”

August 1, 2004. Presentation and panelist at the Southeastern Association of Law Schools annual conference: “Supreme Court and Legislative Preview: Federalism, Equal Protection, Religion, and Free Speech”

May 7, 2004. Presentation at the Florida Bar City, Local, and County Government Law Section annual conference, Orlando, Florida: “Constitutionality of Religious Displays on Public Property”

March 9, 2004. Presentation to the Ohio State Board of Education on the constitutionality of teaching intelligent design creationism in public schools

Feb. 26, 2004. Public lecture at the Case Western Reserve University Department of Philosophy/Institute for Policy Studies: “Science and the Constitution”

Feb. 14, 2004. Presentation and panelist at the American Association for the Advancement of Science Annual Meeting (Seattle, Washington): “The Challenge of Intelligent Design”

Feb. 6, 2004. Presentation at the Brigham Young University J. Ruben Clark Law School Conference on Church Autonomy: “A Skeptical View of History and the Interpretation of the Establishment Clause”

Jan. 29, 2004. Presentation at the Duke Law School faculty workshop: “A Few Questions About Cross Burning, Intimidation, and the First Amendment”

Jan. 3, 2004. Presentation and panelist at the AALS Section on Law and Religion (Atlanta): “One Nation Under God? Unity, Diversity, and Neutrality Under the Religion Clauses”

COURSES

During last two years:

Constitutional Law I and II, First Amendment, Federal Jurisdiction, Church/State Seminar, Civil Rights Remedies

Other:

Cyberlaw, Constitutional Theory Seminar, Habeas Corpus in Capital Cases, Comparative Civil Liberties, Comparative Constitutional Law, Injunctions

AWARDS

University Teaching Award, Florida State University; College of Law Professor of the Year (multiple years); Thurgood Marshall Award (for pro bono representation of death row inmates), Association of the Bar of the City of New York; Friend of Darwin Award (National Center for Science Education)